

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

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|----------------------------|---|------------------------------------|
| HARRY WALKER, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | CIVIL ACTION NO. 5:14-CV-196 (MTT) |
| |) | |
| Warden GREGORY McLAUGHLIN, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

ORDER

United States Magistrate Judge Stephen Hyles recommends dismissing the Petitioner's "Motion for Relief from Judgment under Rule 60(b)." (Docs. 26; 27). Construing the Petitioner's motion as a successive habeas petition, the Magistrate Judge makes this recommendation because the Petitioner has not sought approval from the Eleventh Circuit to file a second or successive petition pursuant to 28 U.S.C. § 2244(b). Thus, the Court lacks jurisdiction to consider the Petitioner's claims. The Petitioner has objected to the Recommendation. (Doc. 28).

Pursuant to 28 U.S.C. § 636(b)(1), the Court has considered the Petitioner's objection and has made a de novo determination of the portions of the Recommendation to which the Petitioner objects. The Court accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge. The Recommendation is **ADOPTED** and made the order of this Court. Accordingly, the Petitioner's "Motion for Relief from Judgment under Rule 60(b)" is **DISMISSED**. (Doc. 26). Further, the Petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2). Therefore, a certificate of

appealability is **DENIED**. Additionally, because there are no non-frivolous issues to raise on appeal, an appeal would not be taken in good faith. See 28 U.S.C. § 1915(a)(3). Accordingly, any motion to proceed *in forma pauperis* on appeal is **DENIED**.

SO ORDERED, this 14th day of December, 2015.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT